

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GERALD PRINCE, JR.,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

CIVIL ACTION NO. 07-11945

DISTRICT JUDGE ARTHUR J. TARNOW

MAGISTRATE JUDGE DONALD A. SCHEER

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

RECOMMENDATION: The instant Complaint seeking judicial review of the Commissioner's decision to deny Social Security Supplemental Security Income benefits should be dismissed for lack of progress, pursuant to Rule 41.2 of the Local Court Rules.

* * *

Plaintiff filed an application for Social Security Supplemental Security Income (SSI) benefits on May 10, 2004, alleging that he had been disabled and unable to work since November 1, 1998, due to shortness of breath and fatigue. Benefits were denied by the Social Security Administration (SSA). A requested de novo hearing was held on July 29, 2005, before Administrative Law Judge (ALJ) E. Patrick Golden. The ALJ subsequently found that the claimant was not entitled to disability benefits because he retained the ability to perform a restricted range of light work. The Appeals Council declined to review that decision and Plaintiff commenced the instant action for judicial review of the denial of benefits.

Plaintiff's application for *in forma pauperis* status was granted on August 24, 2007. The Court further ordered that Plaintiff's request for appointment of counsel be referred to the pro bono program. On September 11, 2007 and January 10, 2008, the law office of attorney Alan Wittenberg, the court appointed counsel, attempted to contact Plaintiff by letter, since he did not have a correct telephone number for the claimant. Plaintiff failed to contact the office of attorney Wittenberg, or otherwise respond.

On February 11, 2008, the Court ordered Plaintiff to show cause in writing, before March 3, 2008, why this case should not be dismissed for lack of prosecution. To date, Plaintiff has not filed a response to the show cause order. Accordingly, I recommend that the instant complaint be dismissed for lack of progress, pursuant to Rule 41.2 of the Local Court Rules.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. United States v. Walters, 638 F.2d 947 (6th Cir. 1981), Thomas v. Arn, 474 U.S. 140 (1985), Howard v. Secretary of HHS, 932 F.2d 505 (6th Cir. 1991). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. Smith v. Detroit Fed'n of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987), Willis v. Secretary of HHS, 931 F.2d 390, 401 (6th Cir. 1991). Pursuant to Rule 72.1 (d)(2) of the Local Rules of the United States District Court for the Eastern District of Michigan, a copy of any objections is to be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall address specifically, and in the same order raised, each issue contained within the objections.

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

DATED: March 11, 2008

CERTIFICATE OF SERVICE

I hereby certify on March 11, 2008 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on March 11, 2008. **Gerald Prince, Jr.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217